

Commissioner Brown noted that dancing is permitted in a nearby location and that it should be considered in allowing dancing at Woody's.

Ms. Wisneski reported that staff's recommendation to deny patron dancing is consistent with the Planning Commission's findings made in November 2012.

Chair Hillgren commented on the mixed-use area, addressed compatible surrounding uses and felt that continuation of a use should not be considered on the basis of prior use, but rather whether or not is it compatible with the uses in the neighborhood.

Vice Chair Tucker commented that a plan to reduce noise was not relevant since all projects are required on the noise issue and the need to comply with the Code with respect to noise. So he referenced the results of a the noise study projecting required compliance cannot be a basis to approve the Applicant's request and stated that to him, it is not an issue. The real issue before the Commission is relates to the compatibility of the proposed changes requested by the Applicant with surrounding allowed uses. He addressed the updates to the General Plan in 2006 which changed allowed uses in the vicinity. Specifically, Vice Chair Tucker read from Municipal Code Section 20.52.020 a finding the Commission must make in order to approve a modification to a conditional use permit: "The design, location, size, and operating characteristics of the use are compatible with the allowed uses in the vicinity". Due to residential uses which are now allowed on the property to the south contiguous with the Applicant's property, the changes Applicant requests to its business would have to be found consistent with allowed uses in the vicinity. He noted that while the use of the adjoining property to the north for dancing had some relevance, the contiguous property to the south under development would have many residential units so it might not be a good idea to allow dancing at Applicant's because it could result in some patrons having too much to drink and leaving the Applicant's business at 2:00 in an area with residential uses and new policies and findings as relevant and not whether the adjacent property allows dancing or not. He agreed that the project should be evaluated on the merits, rather than on whether Applicant in the past they had ve allowed dancing in the past or was are in violation of any permit requirement code. Accordingly, Vice Chair Tucker reiterated that in order to vote in favor of Applicant's request to allow dancing a finding of compatibility would need to be made.

Commissioner Ameri felt that if the operators can improve the service provided and still be within the law, then it should be approved. He reported that dancing will not add to the noise and didn't see a problem with allowing it. If it proves to be problematic, then it would be up to the Police Department to address.

In response to Commissioner Kramer's inquiry regarding a grandfathering provision, Ms. Mulvihill reported that their present permit specifically states no dancing. The subsequent permit they would apply for is issued by Revenue and is more of a revenue permit as opposed to a discretionary permit.

Discussion followed regarding the chances of success with the City in approving a dancing permit if the Commission approves it. Ms. Mulvihill stated that the approval would include site-specific provisions.

Mr. Rowen addressed issues related to enforcement and conditions that Woody's would have to meet prior to having a dancing permit issued to them. If the Commission were to allow dancing, it would not necessarily result in the issuance of a dancing permit by the City; they would still need to meet the requirements per the Municipal Code and amend their present live entertainment permit and obtain an appropriate Operator's License issued by the Police Department.

It was noted that regarding the operator's permit the City would provide notice that an action is being considered to surrounding property owners.

Chair Hillgren agreed with Vice Chair Tucker that the compatibility issue changed with the revised General Plan and the addition of residential uses in the area. He added that the noise issue has been resolved but stated that the fundamental use needs to be limited to weekends.

Commissioner Ameri stressed that it should be specifically stated that no dancing is allowed on the patio.

Chair Hillgren noted that it is specified that dancing would only be in the interior.

Discussion followed regarding incorporating changes proposed by the applicant and staff to the Conditions of Approval and specifically addressing Conditions 51 and 52.

Chair Hillgren noted that he did not agree with changes requested by the applicant regarding Condition 52. He clarified the intent of Condition 51, and modified the condition to delete the prohibition for door charge, but maintained the prohibition of minimum drink orders.

Vice Chair Tucker indicated he will not support the motion adding that it affects the quality of life in relation to the existing and future residential component [and the required compatibility finding cannot be made](#).

Motion made by Chair Hillgren and seconded by Commissioner Ameri and carried (5 – 2), to adopt Resolution No.1922 approving Conditional Use Permit No. UP2011-010 and Variance No. VA2013-006, to allow the proposed patio cover to encroach into the bulkhead setback; extend the opening hour of the restaurant and outdoor dining area to 10:00 a.m., daily, and extend the closing hour of the outdoor dining area to 2:00 a.m., on weekends (Friday and Saturday nights); require the use of the valet parking on an as-needed basis only; and waiver of a portion of the required parking and allowing the introduction of patron dancing within the interior of the restaurant but denying the removal tables and chairs within the outdoor dining area on week nights (Sunday to Thursday nights).

AYES: Ameri, Brown, Hillgren, Kramer and Lawler
NOES: Myers and Tucker

VIII. STAFF AND COMMISSIONER ITEMS

ITEM NO. 6 MOTION FOR RECONSIDERATION - None

ITEM NO. 7 COMMUNITY DEVELOPMENT DIRECTOR'S REPORT

Committee Updates:

1. Land Use Element Amendment Advisory Committee
2. General Plan/Local Coastal Program Implementation Committee

Ms. Wisneski announced an upcoming special meeting of the Planning Commission on September 11, 2013, at 4:00 p.m. in conjunction with the Balboa Village Advisory Committee and the Urban Land Institute. Additionally, she announced that on Monday, September 9, 2013, at 6:00 p.m., there will be a public information meeting in the Community Room updating the community on the outcome and recommendations by the Land Use Element Amendment Advisory Committee. She reported that staff has been having discussions with Coastal Commission staff regarding Local Coastal Program Implementation.

Vice Chair Tucker addressed items for discussion on the General Plan/Local Coastal Program Implementation Committee's upcoming agenda.

Informal recommendations will be given to the Planning Commission at its meeting on September 19, 2013.

ITEM NO. 8 ANNOUNCEMENTS ON MATTERS THAT THE PLANNING COMMISSION MEMBERS WOULD LIKE PLACED ON A FUTURE AGENDA FOR DISCUSSION, ACTION, OR REPORT - None

ITEM NO. 9 REQUESTS FOR EXCUSED ABSENCES

Vice Chair Tucker requested an excused absence for the Planning Commission meeting of October 3, 2013.

Chair Hillgren noted that he will be absent for the Planning Commission meeting of September 19, 2013.

IX. ADJOURNMENT